



INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference LU6139	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/EP2004/011798	International filing date (day/month/year) 19.10.2004	Priority date (day/month/year) 21.10.2003
International Patent Classification (IPC) or national classification and IPC C08K9/04, C08K5/3467, C08L23/02		
Applicant BASELL POLYOLEFINE GMBH et al.		
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> sent to the applicant and to the International Bureau) a total of sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>		
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>		
Date of submission of the demand 18.08.2005	Date of completion of this report 20.01.2006	
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Siemens, T Telephone No. +31 70 340-3642 	

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/011798

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-11 as originally filed

Claims, Numbers

1-12 as originally filed

Drawings, Figures

1-3 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-12
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-12
Industrial applicability (IA)	Yes: Claims	1-12
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

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Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

Reference is made to the following documents:

- D1: WO 00/48957 A (OWENS CORNING; CAMPBELL, LES, E; VICKERY, ERIC, L)
24 August 2000 (2000-08-24)
D2: US-A-5 056 426 (WARYCH ET AL) 15 October 1991 (1991-10-15)

1. Novelty

D1 discloses a composition comprising glass fibers compatibilized by an maleic acid or anhydride modified polypropylene and furthermore containing a fatty acid nucleating agent. No mention is made of the presence of a phthalocyanine nucleating agent,

D2 discloses the use of a phthalocyanine as nucleating agent in an unreinforced polypropylene composition. No mention is made of the further presence of glass fibres and compatibilizers.

Due to the above mentioned differences, the present claims can be considered as being novel.

2. Inventive step

The distinguishing feature between claims 1-12 of the present application and D1, which is considered to represent the closest prior art, is the use of a specific nucleating agent (phthalocyanine).

There is however no technical effect which results due to this distinguishing feature (although the examples in the description show comparative tests of phthalocyanine and sodium benzoate, the amounts used of those nucleating agents are not comparable, in other words the effects shown by replacing the sodium benzoate by the phthalocyanine

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according to the present application could have been the result of a higher sodium benzoate amount; it is furthermore noted that the cited disadvantages of sodium benzoate, description pages 1-2, could have also led to the effects visible in the comparative examples, higher concentration leads to lower strength; for a fair comparison equal amounts of nucleating agents should be used).

The objective technical problem of the present application is therefore the preparation of a further moulding composition.

A skilled person confronted with this problem would therefore obviously also replace the nucleating agent as disclosed in D1 by a phthalocyanine, since these compounds are known as nucleating agents from D2.

Such a replacement would not involve an inventive step, consequently claims 1-12 of the present application lack an inventive step.